

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-321

July 24, 2003

CENTRAL MAINE POWER COMPANY
Request for Approval of Reorganization
and of Affiliated Interest Transactions
to Create Energy East Shared Services
Corporation

ORDER APPROVING
STIPULATION

WELCH, Chairman; DIAMOND and REISHUS, Commissioners¹

I. SUMMARY

On May 2, 2003, Central Maine Power Company (CMP), Maine Natural Gas Corporation (Maine Gas), MaineCom Services (MaineCom), Maine Electric Power Company (MEPCO), NORVARCO and Chester SVC Partnership (Chester) (Collectively referred to as the Applicants or Utility Subsidiaries) filed an application for Approval of Reorganization and Affiliate Transaction (Application). The Application requests approval of the creation of Energy East Shared Services Corporation (Shared Services) to furnish services formerly performed by the Applicants and for the approval of an agreement to provide such services under a service agreement to be entered into between Applicants and Shared Services. The Applicants anticipate that the services to be provided by Shared Services will include accounting, treasury services, regulatory services, legal services, customer services, information technology and engineering services.

In this Order we approve a Stipulation entered into between Central Maine Power Company (CMP or Company), the Office of the Public Advocate (OPA) and the Industrial Energy Consumer Group (IECG) and, thus, approve the Applicants request for reorganization approval to create Energy East Shared Services Corporation (Shared Services) along with the Applicants Request for Affiliated Transaction Approval.

II. BACKGROUND

By way of its request, the Applicants seek approval to create Shared Services which will be a wholly owned subsidiary of Energy East Corporation (Energy East), which is the parent company of the Applicants.

Shared Services will provide, at the request of the Utility Subsidiaries, a variety of administrative and operations services to achieve economies of scale and best

¹ Commissioner Reishus did not participate in this decision as she joined the Commission after the deliberations on this matter. Former Commissioner Nugent was still on with the Commission at the time this matter was deliberated but was not present at the deliberative session.

practices. Specifically, the following services may be offered by Shared Services to the Applicants:

- accounting services including customary accounting services at the Utility Subsidiary level. These activities include the maintenance of the books and
- treasury services;
- accounts payable services;
- human resources services;
- payroll services;
- records retention services;
- regulatory services including responsibility for coordination of the Utility Subsidiaries' rates and regulatory economics departments including rate-related compliance matters;
- legal services including legal support for all Utility Subsidiaries, including managing litigation, contract review and negotiation, and participating in state and federal regulatory proceedings;
- transmission and energy supply services including the coordination of electric and/or gas transmission, storage and supply functions for the Utility Subsidiary companies;
- information technology services including centralized information technology services for the Utility Subsidiaries, such as data center operations, information system networking and telecommunications systems operations and maintenance, software applications development and maintenance, technology development, end user support, and printing and mailing of utility customer bills;
- supply chain services including centralized purchasing services such as procurement of materials and supplies, fleet services, contract administration and materials management for the Utility Subsidiaries;
- engineering services, including centralized customary engineering services for Energy East system companies, including design engineering, general engineering, construction engineering and Geographic Information System ("GIS") technology development, meter services and testing, and operations; and

- customer services, including responsibility for providing call center operations, which would include responding to the client entity's customer calls, customer billing, accounts receivable, credit and collections services, customer satisfaction monitoring and management of low income programs.

The creation of Shares Services constitutes a utility reorganization requiring Commission approval under 35-A M.R.S.A. § 708. In addition, the agreement between Applicants and Shared Services constitutes an affiliated interest transaction requiring Commission approval under 35-A M.R.S.A. § 707.

On May 15, 2003, the Commission issued a Notice of Proceeding which provided interested persons with an opportunity to intervene in this matter. The OPA and the IECG filed timely petitions to intervene. In addition, Bangor Hydro-Electric Company (BHE) filed a request to be added as an "interested person- receiving all filings." The petitions and requests of the OPA, the IECG and BHE were all granted without objection.

A technical conference on the Applicant's filing was held on June 13, 2003. Following the technical conference, settlement conferences were held which involved all parties in the case as well as the Commission's Advisory Staff. On June 24, 2003, we received a Stipulation entered into between the Applicants, the OPA and the IECG which, if approved, would resolve all issues in this matter.

III. DESCRIPTION OF THE STIPULATION

The parties to the Stipulation propose that the Applicants request to create Shared Services to perform the activities or services described above be approved. Shared Services activities would be conducted in accordance with a service agreement similar to the "Form of Service Agreement" and cost allocation manual approved previously by the Commission in *Central Maine Power Company, et. al., Request for Approval of Affiliated Interest Transaction for Two Service Agreements with Energy East Management Corporation*, Docket No. 2001-178, Order Approving Stipulation (July 10, 2001). The Applicants agree that the final "Form of Service Agreement" and cost allocation manual will be submitted in compliance with this requirement before they are to become effective.

In Docket No. 2001-178, the Commission agreed to waive the requirement that the corporate support services described in Section II above, be provided at market rates and authorized that such services, at that time contemplated to be supplied to the utility by Energy East Management, be charged based on a fully distributed cost methodology reviewed by the Securities and Exchange Commission (SEC). The waiver permitted Energy East management to bill Applicants no more than \$7 million during any calendar year. If Applicants desire to increase the amount to no more than \$10 million, they are required to make a notice filing with the Commission which would become automatically effective unless either of the parties to that proceeding, the OPA,

the IECG or the Commission's Staff filed an objection to such request. To increase the waiver amount above \$10 million the Applicants must file a request for approval with the Commission. The Commission is to act upon such a request within 120 days of the date of filing.

The parties to the Stipulation agree to increase the waiver thresholds established in Docket No 2001-178 to \$10 million and \$14 million respectively. The parties agree that all other provisions of the Stipulation in Docket No. 2001-178 are incorporated by reference unless otherwise in conflict with a provision of the Stipulation in this case.

Finally, the parties agree that before Shared Services performs the Customer Services functions described above that the Applicants will make a notice filing with the Commission. The services shall automatically become effective unless, within 30 days of such filing, a party to this proceeding or the Commission Staff files an objection described in this paragraph within 60 days of the filing. The commission may, however, suspend the effective date of the arrangement for an additional 60 days if necessary to enable the Commission to complete its review of the arrangement.

IV. DECISION

As we have now stated on many occasions, to accept a stipulation the Commission must find:

1. the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. the process that led to the stipulation was fair to all parties; and
3. the stipulated result is reasonable and is not contrary to legislative mandates.

See Central Maine Power Company, Proposed Increase in Rates, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996).

We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. *See Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets these criteria.

CMP, the OPA and the IECG have agreed to the Stipulation. These entities, representing often opposite views in the ratemaking process, constitute a sufficiently broad spectrum of interests to satisfy the first criterion. *See Public Utilities Commission*,

Investigation of stranded Cost Recovery, Transmission and Distribution Utility Revenue Requirements and Rate Design of Bangor Hydro-Electric Company (Phase II), Docket No. 99-185, Order Approving Stipulation (Maine Public Service Company) at 3 (Aug. 11, 2000).

Based on the record before us, we also find that the process that led to this Stipulation was fair and open. We, therefore, conclude that the second criterion for approval has been satisfied.

Finally, we find that the Stipulation provides CMP, and the other Applicants, with an opportunity to pursue corporate objectives and economic efficiencies while at the same time ensuring that utility subsidiaries' core ratepayers are protected. In our Order Approving Stipulation in Docket No. 2001-178, we noted:

More importantly CMP, by far the largest of Applicants in terms of costs and revenues, is now operating under the ARP 2000 rate plan approved by the Commission in *Central Maine Power Company, Request for Approval of Alternative Rate Plan (Post-Merger) "ARP 2000,"* Docket No. 99-666, Order Approving Stipulation (Nov. 16, 2000). Under ARP 2000, CMP's rates as a general matter will be based on an external index (inflation – productivity) for the next six and one-half years. Thus, not only are CMP's affiliate transaction costs irrelevant to the rates set under the general index but more importantly CMP has a direct incentive to find the most efficient and cost-minimizing way to provide service as opposed to the incentive presented by traditional cost-plus regulation to shift costs among affiliates in ways which maximize recovery from the utility's ratepayers. To the extent that rates may actually be influenced by the affiliate transaction costs under the proposed agreements, the stipulation requires the utility to either provide market prices for services or a specific explanation why market prices cannot be provided.

The Stipulation in Docket No. 2001-178 which has been incorporated by reference into the stipulation before the Commission further provides:

For ratemaking purposes, each of the applicants will provide appropriate market information (which shall mean market rates for such services or, of the applicants conclude that no market rates are available, the explanation supporting the unavailability of market rates) to demonstrate that the costs billed under these agreements are just and reasonable. Such market information shall only be required if and to the extent that an applicant is seeking (or another party is

requesting) a rate change (whether in a general rate proceeding, pursuant to a bottom-end earnings sharing mechanism, or as a result of a mandated cost) that includes costs billed under the agreements approved herein. In such a proceeding seeking a rate change, any other party is free to contest the reasonableness of the costs incurred under the agreements approved herein and the applicant seeking to include such costs in its rate change shall have the burden of proof as to the reasonableness of such costs.

Stipulation, ¶ 5(b). Thus, we conclude that the result of the Stipulation is reasonable, not contrary to legislative mandate and consistent with the public interest.

Accordingly, we

O R D E R

1. That the stipulation filed by the Applicants, the Office of the Public Advocate and the IECG on June 24, 2003 in this matter, a copy of which is attached and incorporated into this Order, is approved;
2. That the Applicants shall file the Affiliate Transaction Agreements and the modified cost manual as set forth in the Stipulation in compliance with this Order;
3. That approval of this compliance filing is delegated to the Director of the Commission's Finance Division; and
4. That pursuant to the requirements of 35-A M.R.S.A. § 707(D), approval of the Affiliated Transaction Agreements, does not limit or restrict the powers of the Commission in setting rates under the provisions of Title 35-A.

Dated at Augusta, Maine, this 24th day of July, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

ORDER APPROVING...

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COMMISSIONERS VOTING FOR:

Welch
Diamond

COMMISSIONERS ABSENT:

Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.